

AMENDED IN ASSEMBLY MAY 24, 2004

AMENDED IN SENATE MAY 20, 2003

AMENDED IN SENATE APRIL 21, 2003

SENATE BILL

No. 30

Introduced by Senator Figueroa
(Coauthor: Assembly Member Correa)

December 2, 2002

An act to amend ~~Sections 7030 and 7151.2~~ *Section 7030* of, to add Sections 7159.4, 7159.5, 7159.6, ~~7159.7, and 7159.9~~ 7159.10, 7159.11, 7159.12, 7159.13, and 7159.14 to, to repeal Section 7018.5 of, and to repeal and add Sections 7159 and 7159.3 of, the Business and Professions Code, and to amend Sections 1689.5, 1689.6, and 1689.7 of, *to add Section 1689.15 to*, and to repeal and add Section 1689.13 of, the Civil Code, relating to home improvement contracts.

LEGISLATIVE COUNSEL'S DIGEST

SB 30, as amended, Figueroa. Home improvement contracts.

Existing law defines a "home improvement contract" and requires home improvement contracts between contractors and homeowners or tenants to comply with specified requirements, and makes a violation of these provisions regarding home improvement contracts a crime. Existing law authorizes an individual to rescind a home improvement contract if certain conditions are met.

This bill would repeal these provisions and instead require that a home improvement contract and any changes made to that contract be in writing, be legible, be easy to understand, and inform a consumer of his or her 3-day right to cancel or rescind the contract. The bill would require that a home improvement contract contain various information,

notices, and disclosures for the protection of the consumer. The bill would provide that a violation of these provisions subjects the home improvement contractor to discipline. The bill would define a “service and repair contract” and would ~~include this type of contract within the definition of a home improvement repair contract~~ *enact various disclosure requirements applicable to this type of contract. The bill would provide that a violation of these provisions subjects the contractor to discipline.* The bill would make conforming changes and revise and recast certain existing provisions regarding home improvement contracts *and related matters.*

Because a violation of the bill would be a crime, it would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 7018.5 of the Business and Professions
2 Code is repealed.
3 SEC. 2. Section 7030 of the Business and Professions Code
4 ~~is amended to read:~~
5 ~~7030. (a) Except for home improvement contracts, as~~
6 ~~defined in Section 7151.2, every person licensed pursuant to this~~
7 ~~chapter shall include the following statement in at least 10 point~~
8 ~~type on all written contracts with respect to which the person is a~~
9 ~~prime contractor:~~
10 ~~“Contractors are required by law to be licensed and regulated~~
11 ~~by the Contractors’ State License Board which has jurisdiction to~~
12 ~~investigate complaints against contractors if a complaint regarding~~
13 ~~a patent act or omission is filed within four years of the date of the~~
14 ~~alleged violation. A complaint regarding a latent act or omission~~
15 ~~pertaining to structural defects must be filed within 10 years of the~~
16 ~~date of the alleged violation. Any questions concerning a~~

1 ~~contractor may be referred to the Registrar, Contractors' State~~
2 ~~License Board, P.O. Box 26000, Sacramento, California 95826."~~

3 ~~(b) Every person licensed pursuant to this chapter shall include~~
4 ~~the following statement in at least 12-point type in all contracts~~
5 ~~written pursuant to Section 7151.2 and in the home improvement~~
6 ~~checklist required pursuant to subdivision (i) of Section 7159.4:~~

7
8 ~~"Information about the Contractors State License Board~~
9 ~~(CSLB): CSLB is the state consumer protection agency that~~
10 ~~licenses and regulates construction contractors.~~

11
12 ~~Contact CSLB for information about licensed contractors,~~
13 ~~including disclosable complaints and disciplinary actions and civil~~
14 ~~judgments reported to CSLB.~~

15
16 ~~Use only licensed contractors. If you use an unlicensed~~
17 ~~contractor, CSLB may not be able to help you resolve your~~
18 ~~complaint. Your only remedy may be in civil court, and you may~~
19 ~~be liable for damages arising out of any injuries to the unlicensed~~
20 ~~contractor or the unlicensed contractor's employees.~~

21
22 ~~For more information:~~

23
24 ~~Visit CSLB's Web site at www.cslb.ca.gov.~~

25
26 ~~Call CSLB at 1-800-321-CSLB (2752).~~

27
28 ~~Write CSLB at P.O. Box 26000, Sacramento, CA. 95826."~~

29
30 ~~(c) Failure to comply with the notice requirements set forth in~~
31 ~~subdivision (a) or (b) of this section is cause for disciplinary~~
32 ~~action.~~

33 ~~SEC. 3.—Section 7151.2 of the Business and Professions Code~~
34 ~~is amended to read:~~

35 ~~7151.2. (a) "Home improvement contract" means an~~
36 ~~agreement, whether oral or written, or contained in one or more~~
37 ~~documents, between a contractor and an owner or between a~~
38 ~~contractor and a tenant, regardless of the number of residence or~~
39 ~~dwelling units contained in the building in which the tenant~~
40 ~~resides, if the work is to be performed in, to, or upon the residence~~

1 ~~or dwelling unit of the tenant, for the performance of a home~~
2 ~~improvement as defined in Section 7151, and includes all labor,~~
3 ~~services, and materials to be furnished and performed thereunder.~~
4 ~~A registered salesperson employed by a home improvement~~
5 ~~contractor may enter into a home improvement contract on behalf~~
6 ~~of that contractor.~~

7 ~~(b) “Service and repair contract” is a home improvement~~
8 ~~contract initiated by the homeowner or tenant for service or repair~~
9 ~~that meets all of the following requirements:~~

- 10 ~~(1) The contract price is five hundred dollars (\$500) or less.~~
11 ~~(2) The negotiation between the parties is initiated by the buyer.~~
12 ~~(3) The contractor does not sell the buyer goods or service~~
13 ~~beyond those reasonably necessary to address the particular~~
14 ~~problem that caused the buyer to call for service or repair.~~

15 ~~SEC. 4.—~~

16 *is amended to read:*

17 7030. (a) ~~Every~~ *Except for contractors writing home*
18 *improvement contracts pursuant to Section 7151.2 and*
19 *contractors writing service and repair contracts pursuant to*
20 *Section 7159.10, every person licensed pursuant to this chapter*
21 *shall include the following statement in at least 10-point type on*
22 *all written contracts with respect to which the person is a prime*
23 *contractor:*

24 “Contractors are required by law to be licensed and regulated
25 by the Contractors’ State License Board which has jurisdiction to
26 investigate complaints against contractors if a complaint regarding
27 a patent act or omission is filed within four years of the date of the
28 alleged violation. A complaint regarding a latent act or omission
29 pertaining to structural defects must be filed within 10 years of the
30 date of the alleged violation. Any questions concerning a
31 contractor may be referred to the Registrar, Contractors’ State
32 License Board, P.O. Box 26000, Sacramento, California 95826.”

33 ~~(b) At the time of making a bid or prior to entering into a~~
34 ~~contract to perform work on residential property with four or fewer~~
35 ~~units, whichever occurs first, a contractor shall provide the~~
36 ~~following notice in capital letters in at least 10-point roman~~
37 ~~boldface type or in contrasting red print in at least 8-point roman~~
38 ~~boldface type:~~

39
40 ~~“STATE LAW REQUIRES ANYONE WHO CONTRACTS TO~~

~~DO CONSTRUCTION WORK TO BE LICENSED BY THE CONTRACTORS' STATE LICENSE BOARD IN THE LICENSE CATEGORY IN WHICH THE CONTRACTOR IS GOING TO BE WORKING IF THE TOTAL PRICE OF THE JOB IS \$500 OR MORE (INCLUDING LABOR AND MATERIALS).~~

~~LICENSED CONTRACTORS ARE REGULATED BY LAWS DESIGNED TO PROTECT THE PUBLIC. IF YOU CONTRACT WITH SOMEONE WHO DOES NOT HAVE A LICENSE, THE CONTRACTORS' STATE LICENSE BOARD MAY BE UNABLE TO ASSIST YOU WITH A COMPLAINT. YOUR ONLY REMEDY AGAINST AN UNLICENSED CONTRACTOR MAY BE IN CIVIL COURT, AND YOU MAY BE LIABLE FOR DAMAGES ARISING OUT OF ANY INJURIES TO THE CONTRACTOR OR HIS OR HER EMPLOYEES.~~

~~YOU MAY CONTACT THE CONTRACTORS' STATE LICENSE BOARD TO FIND OUT IF THIS CONTRACTOR HAS A VALID LICENSE. THE BOARD HAS COMPLETE INFORMATION ON THE HISTORY OF LICENSED CONTRACTORS, INCLUDING ANY POSSIBLE SUSPENSIONS, REVOCATIONS, JUDGMENTS, AND CITATIONS. THE BOARD HAS OFFICES THROUGHOUT CALIFORNIA. PLEASE CHECK THE GOVERNMENT PAGES OF THE WHITE PAGES FOR THE OFFICE NEAREST YOU OR CALL 1-800-321-CSLB FOR MORE INFORMATION."~~

Every person licensed pursuant to this chapter shall include the following statement in at least 10-point type in all home improvement contracts written pursuant to Section 7151.2 and service and repair contracts written pursuant to Section 7159.10:

"Information about the Contractors' State License Board (CSLB): CSLB is the state consumer protection agency that licenses and regulates construction contractors.

Contact CSLB for information about the licensed contractor you are considering, including information about disclosable complaints, disciplinary actions and civil judgments that are reported to CSLB.

1 *Use only licensed contractors. If you use an unlicensed*
2 *contractor, CSLB may not be able to help you resolve your*
3 *complaint. Your only remedy may be in civil court, and you may be*
4 *liable for damages arising out of any injuries to the unlicensed*
5 *contractor or the unlicensed contractor's employees.*

6 *For more information:*

7 *Visit CSLB's Web site at www.cslb.ca.gov*

8 *Call CSLB at 800-321-CSLB (2752)*

9 *Write CSLB at P.O. Box 26000, Sacramento, CA 95826."*

10 (c) Failure to comply with the notice requirements set forth in
11 subdivision (a) or (b) of this section is cause for disciplinary
12 action.

13 SEC. 3. Section 7159 of the Business and Professions Code is
14 repealed.

15 ~~SEC. 5.~~

16 SEC. 4. Section 7159 is added to the Business and Professions
17 Code, to read:

18 ~~7159. This section applies only to home improvement~~
19 ~~contracts, including service and repair contracts, as defined in~~
20 ~~Section 7151.2. A violation of this section is cause for discipline.~~

21 ~~(a) A home improvement contract and any changes to the~~
22 ~~contract shall be in a writing signed by the parties.~~

23 ~~(b) The writing shall be legible and in a form that clearly~~
24 ~~describes any other document that is incorporated into the~~
25 ~~contract, including a bill of materials, a detailed description of the~~
26 ~~work to be done, or an arbitration agreement.~~

27 ~~(c) Before any work is started, the contractor shall give the~~
28 ~~owner a copy of the contract that is signed by the contractor. The~~
29 ~~owner's receipt of the copy triggers the owner's three-day right to~~
30 ~~cancel, if the right to cancel is applicable.~~

31 ~~(d) A change-order form for changes or extra work shall be~~
32 ~~incorporated into the contract and shall become part of the contract~~
33 ~~if it is in a writing signed by the parties.~~

34 ~~(e) The provisions of this section are not exclusive and do not~~
35 ~~relieve the contractor from compliance with any other applicable~~
36 ~~provision of law.~~

37 ~~SEC. 6.~~

38 ~~7159. This section applies to all home improvement contracts~~
39 ~~as defined in Section 7151.2.~~

40 ~~A violation of this section is cause for discipline.~~

1 (a) A home improvement contract and any changes to the
2 contract shall be in writing and signed by the parties.

3 (b) The writing shall be legible.

4 (c) Any printed form shall be readable and the headings shall
5 be in at least 10-point boldface type.

6 (d) Before any work is started, the contractor shall give the
7 buyer a copy of the contract signed by the contractor. The buyer's
8 receipt of the copy triggers the buyer's rights under the Home
9 Solicitation Act, if the right to cancel is applicable.

10 (e) A change-order form for changes or extra work shall be
11 incorporated into the contract and shall become part of the
12 contract if it is in writing and signed by the parties.

13 (f) Change orders required by the building department at the
14 jobsite shall be considered incorporated into the contract without
15 being signed by both parties.

16 (g) The provisions of this section are not exclusive and do not
17 relieve the contractor from compliance with any other applicable
18 provision of law.

19 SEC. 5. Section 7159.3 of the Business and Professions Code
20 is repealed.

21 ~~SEC. 7.~~

22 SEC. 6. Section 7159.3 is added to the Business and
23 Professions Code, to read:

24 ~~7159.3. This section applies to all home improvement~~
25 ~~contracts, as defined in Section 7151.2. Failure to provide the~~
26 ~~following information, notices, and disclosures is cause for~~
27 ~~discipline. A contractor who performs home improvement work~~
28 ~~is required to provide all of the following information, notices, and~~
29 ~~disclosures in a home improvement contract:~~

30 ~~(a) The name, business address, and license number of the~~
31 ~~contractor and the license category relevant to the project.~~

32 ~~(b) The name and registration number of the home~~
33 ~~improvement salesperson, if any.~~

34 ~~(c) The notice: "Notice to the Buyer: You are entitled to a~~
35 ~~completely filled in copy of this agreement before any work may~~
36 ~~be started."~~

37 ~~(d) The heading "Commercial General Liability Insurance~~
38 ~~(CGL)," followed by whichever statement that is both relevant~~
39 ~~and correct:~~

1 ~~(1) “[The name on the license or “This contractor”] does not~~
2 ~~carry commercial general liability insurance”; or~~

3 ~~(2) “[The name on the license or “This contractor”] carries~~
4 ~~commercial general liability insurance written by [the insurance~~
5 ~~company]. You may call the [insurance company] at _____ to check~~
6 ~~the contractor’s insurance coverage”; or~~

7 ~~(3) “[The name on the license or “This contractor”] is~~
8 ~~self-insured.”~~

9 ~~(e) The heading: “Workers’ Compensation,” followed by~~
10 ~~whichever following statement is both relevant and correct:~~

11 ~~(1) “[The name on the license or “This contractor”] has no~~
12 ~~employees and is exempt from workers’ compensation~~
13 ~~requirements”; or~~

14 ~~(2) [The name on the license or “This contractor”] certifies~~
15 ~~that he or she carries workers’ compensation insurance for all~~
16 ~~employees and has verified that all subcontractors also carry this~~
17 ~~insurance for his or her employees.”~~

18 ~~(f) The heading: “Approximate Start Date” and~~
19 ~~“Approximate Completion Date,” each followed by the~~
20 ~~approximate dates for start and completion.~~

21 ~~(g) The heading: “Description of the project and detailed~~
22 ~~description of the materials to be used and the equipment to be used~~
23 ~~or installed,” followed by a description of the project and a~~
24 ~~detailed description of the materials to be used and the equipment~~
25 ~~to be used or installed.~~

26 ~~(h) If documents are to be incorporated into the contract, the~~
27 ~~heading, “List of Documents Incorporated into the Contract,”~~
28 ~~followed by the list of documents incorporated into the contract.~~

29 ~~(i) The signatures of the contractor or the contractor’s~~
30 ~~representative, and the buyer.~~

31 ~~(j) The date the contract was signed.~~

32 ~~SEC. 8.—~~

33 ~~7159.3. This section applies to all home improvement~~
34 ~~contracts, as defined in Section 7151.2. Failure by the licensee to~~
35 ~~provide the following information, notices, and disclosures in the~~
36 ~~contract is cause for discipline:~~

37 ~~(a) The name, business address, and license number of the~~
38 ~~contractor and the description of the license classification relevant~~
39 ~~to the project.~~

1 (b) The name and registration number of the home
2 improvement salesperson, if any.

3 (c) A notice concerning commercial general liability
4 insurance. This notice may be provided as an attachment to the
5 contract if the contract includes the statement, “A notice
6 concerning commercial general liability insurance is attached to
7 this contract.” The notice shall include the heading “Commercial
8 General Liability Insurance (CGL),” followed by whichever of the
9 following statements is both relevant and correct:

10 (1) “(The name on the license or “This contractor”) does not
11 carry commercial general liability insurance.”

12 (2) “(The name on the license or “This contractor”) carries
13 commercial general liability insurance written by (the insurance
14 company). You may call the (insurance company) at _____
15 to check the contractor’s insurance coverage.”

16 (3) “(The name on the license or “This contractor”) is
17 self-insured.”

18 (d) The heading: “Workers’ Compensation,” followed by
19 whichever of the following statements is both relevant and correct:

20 (1) “(The name on the license or “This contractor”) has no
21 employees and is exempt from workers’ compensation
22 requirements.”

23 (2) (The name on the license or “This contractor”) certifies
24 that he or she carries workers’ compensation insurance for all
25 employees.

26 SEC. 7. Section 7159.4 is added to the Business and
27 Professions Code, to read:

28 ~~7159.4. This section applies to all home improvement~~
29 ~~contracts, except service and repair contracts, as defined in Section~~
30 ~~7151.2. Failure to provide the following information, notices, and~~
31 ~~disclosures is cause for discipline. In addition to the requirements~~
32 ~~of Section 7159.3, a contractor who performs home improvement~~
33 ~~work is required to provide the following information, notices, and~~
34 ~~disclosures in all home improvement contract:~~

35 ~~(a) Notice of the type of contract: Home Improvement.~~

36 ~~(b) The heading: “Contract Amount,” followed by the amount~~
37 ~~of the contract in dollars and cents.~~

38 ~~(c) For swimming pools, in addition to the project description~~
39 ~~required under Section 7159.3, a plan and scale drawing showing~~

1 the shape, size, dimensions, and the construction and equipment
2 specifications.

3 ~~(d) If a downpayment will be charged, the heading:~~
4 ~~“Downpayment” and a space where the actual downpayment~~
5 ~~appears followed by the text in capital letters: “THE~~
6 ~~DOWNPAYMENT MAY NOT EXCEED \$1,000 OR 10~~
7 ~~PERCENT OF THE CONTRACT PRICE, WHICHEVER IS~~
8 ~~LESS.”~~

9 ~~(e) If a payment schedule provides for progress payments to be~~
10 ~~made prior to completion of the contract, the contract shall include~~
11 ~~a schedule labeled “Schedule of Progress Payments,” stated in~~
12 ~~dollars and cents and specifically referencing the amount of work~~
13 ~~or services to be performed and any materials and equipment to be~~
14 ~~supplied, and the following statement:~~

15 ~~“The schedule of progress payments should be planned so that,~~
16 ~~except for the downpayment, the total amount of payments to be~~
17 ~~made at any given time will not exceed the value of the work~~
18 ~~performed. The time for payment should be tied to the completion~~
19 ~~of specific phases of work.”~~

20 ~~(f) If applicable, the heading, “List of documents to be~~
21 ~~incorporated into the contract,” followed by the list of documents~~
22 ~~incorporated into the contract.~~

23 ~~(g) The heading “Note about Extra and Change Orders”~~
24 ~~followed by the following statement:~~

25 ~~“Extra and change orders become part of the contract once the~~
26 ~~order is prepared in writing and signed by the parties. The order~~
27 ~~must describe the scope of the extra and/or change, the cost to be~~
28 ~~added or subtracted from the contract, and the effect the order will~~
29 ~~have on the schedule of progress payments.~~

30 ~~(h) Except when the contract is negotiated at the contractor’s~~
31 ~~place of business, the three-day notice of the right to cancel found~~
32 ~~in clause (i) of paragraph (4) of subdivision (a) of Section 1689.7~~
33 ~~of the Civil Code.~~

34 ~~(i) The following notice in 12-point times new roman type:~~
35 ~~“MECHANICS LIEN WARNING:~~

36
37 ~~Anyone who helps improve your property, but who is not paid,~~
38 ~~may file what is called a mechanics’ lien on your property. A~~
39 ~~mechanics’ lien is a claim, like a mortgage or home equity loan,~~
40 ~~made against your property and filed with the county recorder.~~

1 Even if you pay your contractor in full, unpaid subcontractors,
2 suppliers, and laborers who helped to improve your property may
3 file mechanics' liens. If a court finds the lien is valid, you could
4 be forced to pay twice or have a court officer sell your home to pay
5 the lien. Liens can also affect your credit.

6 To preserve their right to file a lien, subcontractors and material
7 suppliers must provide you with a document called a "20-day
8 Preliminary Notice." This notice is not a lien. The purpose of the
9 notice is to let you know that the person who sends you the notice
10 has the right to file a lien on your property if he or she is not paid.

11 Be careful. The Preliminary Notice can be sent up to 20 days
12 after the subcontractor starts work or the supplier provides
13 material. This can be a big problem if you pay your contractor
14 before you have received the Preliminary Notices.

15 You will not get Preliminary Notices from your prime
16 contractor or from laborers who work on your project. The law
17 assumes that you already know they are improving your property.

18 Protect yourself from liens.

19
20 You can protect yourself from liens by getting a list from your
21 contractor of all the subcontractors and material suppliers that
22 work on your project. Find out from your contractor when these
23 subcontractors started work and these suppliers delivered goods or
24 material. Then wait 20 days, paying attention to the Preliminary
25 Notices you receive.

26 Pay with joint checks.

27
28 When your contractor tells you it is time to pay for the work of
29 a subcontractor or supplier who has provided you with a
30 Preliminary Notice, write a joint check payable to both the
31 contractor and the subcontractor or material supplier.

32 Contact CSLB for information on other ways to prevent liens.

33 REMEMBER, IF YOU DO NOTHING, YOU RISK HAVING
34 A LIEN PLACED ON YOUR HOME. This can mean that you
35 may have to pay twice, or face the forced sale of your home to pay
36 what you owe."

37 (j) A home improvement contract shall be accompanied by a
38 checklist prepared by the board by regulation that sets forth the
39 items that an owner should consider when reviewing a proposed
40 home improvement contract.

1 ~~SEC. 9.—~~

2 7159.4. *This section applies to all home improvement*
3 *contracts, as defined in Section 7151.2. Failure by the licensee to*
4 *provide the following information, notices, and disclosures in the*
5 *contract is cause for discipline:*

6 (a) *Notice of the type of contract in at least 10-point boldface*
7 *type: “Home Improvement.”*

8 (b) *The notice in at least 10-point boldface type: “Notice to the*
9 *Buyer: You are entitled to a completely filled in copy of this*
10 *agreement before any work may be started.”*

11 (c) *The heading: “Contract Amount,” followed by the amount*
12 *of the contract in dollars and cents.*

13 (d) *If a finance charge will be charged, the heading: “Finance*
14 *charge” followed by the amount in dollars and cents. The finance*
15 *charge is to be set out separately from the contract amount.*

16 (e) *The heading: “Description of the project and description of*
17 *the significant materials to be used and equipment to be installed,”*
18 *followed by a description of the project and a description of the*
19 *significant material to be used and equipment to be installed.*

20 (f) *For swimming pools, in addition to the project description*
21 *required under subdivision (e), a plan and scale drawing showing*
22 *the shape, size, dimensions, and the construction and equipment*
23 *specifications.*

24 (g) *If a down payment will be charged, the heading: “Down*
25 *payment” and a space where the actual down payment appears*
26 *followed by the text in capital letters: “THE DOWNPAYMENT*
27 *MAY NOT EXCEED THE LESSER OF \$1,000 OR 10 PERCENT*
28 *OF THE CONTRACT PRICE.”*

29 (h) *If any payment, besides the down payment, is to be made*
30 *before the project is completed, the contract shall include a*
31 *schedule with a heading labeled “Schedule of Progress*
32 *Payments,” stated in dollars and cents and specifically*
33 *referencing the amount of work or services to be performed and*
34 *any materials and equipment to be supplied, and the following*
35 *statement:*

36 *“The schedule of progress payments must specifically describe*
37 *each phase of work, including the type and amount of work or*
38 *services scheduled to be supplied in each phase, along with the*
39 *amount of each proposed progress payment. IT IS AGAINST THE*
40 *LAW FOR A CONTRACTOR TO COLLECT PAYMENT FOR*

1 WORK NOT YET COMPLETED, OR FOR MATERIALS NOT
2 YET DELIVERED.”

3 (i) The heading: “Approximate Start Date” and “Approximate
4 Completion Date,” each followed by the approximate dates for
5 start and completion.

6 (j) If applicable, the heading, “List of documents to be
7 incorporated into the contract,” followed by the list of documents
8 incorporated into the contract.

9 (k) The heading “Note about Extra (and Change) Orders”
10 followed by the following statement:

11 “Extra (and Change) Orders become part of the contract once
12 the order is prepared in writing and signed by the parties. The
13 order must describe the scope of the extra or change, the cost to
14 be added or subtracted from the contract, and the effect the order
15 will have on the schedule of progress payments. Change orders
16 required by the building department at the jobsite shall be
17 considered incorporated into the contract without being signed by
18 both parties.”

19 (l) Except when the contract is negotiated at the contractor’s
20 place of business, the statement found in paragraph (4) of
21 subdivision (a) of Section 1689.7 of the Civil Code for the
22 three-day right to cancel or the statement found in paragraph (2)
23 of subdivision (e) of Section 1689.7 for the seven-day right to
24 cancel, whichever is relevant. A statement may be attached to the
25 contract if the contract includes a checkbox and whichever
26 statement is relevant:

27 (1) “The law requires that the contractor give you a notice
28 explaining your right to cancel. Initial the checkbox if the
29 contractor has given you a ‘Notice of the Three-Day Right to
30 Cancel.’ ”

31 (2) “The law requires that the contractor give you a notice
32 explaining your right to cancel. Initial the checkbox if the
33 contractor has given you a ‘Notice of the Seven-Day Right to
34 Cancel.’ ”

35 (m) The signatures of the contractor or the contractor’s
36 representative, and the buyer.

37 (n) The date the contract was signed.

38 (o) A statement with the heading “Mechanics’ lien warning”
39 as follows:
40

1 **“MECHANICS LIEN WARNING:**

2
3 *Anyone who helps improve your property, but who is not paid,*
4 *may record what is called a mechanics’ lien on your property. A*
5 *mechanics’ lien is a claim, like a mortgage or home equity loan,*
6 *made against your property and recorded with the county recorder.*

7 *Even if you pay your contractor in full, unpaid subcontractors,*
8 *suppliers, and laborers who helped to improve your property may*
9 *record mechanics’ liens and sue you in court to foreclose the lien.*
10 *If a court finds the lien is valid, you could be forced to pay twice*
11 *or have a court officer sell your home to pay the lien. Liens can also*
12 *affect your credit.*

13 *To preserve their right to record a lien, each subcontractor and*
14 *material supplier must provide you with a document called a*
15 *“20-day Preliminary Notice.” This notice is not a lien. The*
16 *purpose of the notice is to let you know that the person who sends*
17 *you the notice has the right to record a lien on your property if he*
18 *or she is not paid.*

19 *BE CAREFUL. The Preliminary Notice can be sent up to 20*
20 *days after the subcontractor starts work or the supplier provides*
21 *material. This can be a big problem if you pay your contractor*
22 *before you have received the Preliminary Notices.*

23 *You will not get Preliminary Notices from your prime contractor*
24 *or from laborers who work on your project. The law assumes that*
25 *you already know they are improving your property.*

26
27 **PROTECT YOURSELF FROM LIENS.** *You can protect*
28 *yourself from liens by getting a list from your contractor of all the*
29 *subcontractors and material suppliers that work on your project.*
30 *Find out from your contractor when these subcontractors started*
31 *work and when these suppliers delivered goods or material. Then*
32 *wait 20 days, paying attention to the Preliminary Notices you*
33 *receive.*

34
35 **PAY WITH JOINT CHECKS.** *One way to protect yourself is to*
36 *pay with a joint check. When your contractor tells you it is time to*
37 *pay for the work of a subcontractor or supplier who has provided*
38 *you with a Preliminary Notice, write a joint check payable to both*
39 *the contractor and the subcontractor or material supplier.*

1 For other ways to prevent liens, visit CSLB's Web site at
2 www.cslb.ca.gov or call CSLB at 800-321-CSLB (2752).

3
4 **REMEMBER, IF YOU DO NOTHING, YOU RISK HAVING A**
5 **LIEN PLACED ON YOUR HOME.** This can mean that you may
6 have to pay twice, or face the forced sale of your home to pay what
7 you owe."

8 SEC. 8. Section 7159.5 is added to the Business and
9 Professions Code, to read:

10 ~~7159.5. This section applies to all home improvement~~
11 ~~contracts as defined in subdivision (b) of Section 7151.2. Failure~~
12 ~~to provide the following information, notices, and disclosures is~~
13 ~~cause for discipline. In addition to the information required under~~
14 ~~Section 7159.3, a contractor who uses a service and repair contract~~
15 ~~is required to provide the following information, notices, and~~
16 ~~disclosures in all home improvement contracts:~~

17 ~~(a) Notice of the type of contract: Service and Repair.~~

18 ~~(b) The notice: "Work performed under a service and repair~~
19 ~~contract is limited to \$500 unless the work agreed to under the~~
20 ~~contract is an emergency necessary for the immediate protection~~
21 ~~of people, or real or personal property."~~

22 ~~(c) Where the contract is a fixed contract amount, the heading:~~
23 ~~"Contract Amount" followed by the amount of the contract in~~
24 ~~dollars and cents.~~

25 ~~(d) Where the contract is estimated by a time and materials~~
26 ~~formula, the heading "Estimated Contract Amount" followed by~~
27 ~~the estimated contract amount in dollars and cents. The contract~~
28 ~~must disclose the set rate and the cost of materials. The contract~~
29 ~~must also disclose how time will be computed: for example, in~~
30 ~~increments of quarter hours, half hours, or hours, and the~~
31 ~~statement: "The actual contract amount of a Time and Materials~~
32 ~~contract may not exceed the estimated contract amount without~~
33 ~~authorization from the buyer."~~

34 ~~(e) Except when the contract is negotiated at the contractor's~~
35 ~~place of business, the three-day notice to the right to cancel found~~
36 ~~in paragraph (5) of subdivision (a) of Section 1689.7 of the Civil~~
37 ~~Code.~~

38 ~~(f) Each service and repair contract shall be accompanied by a~~
39 ~~checklist prepared by the board through regulation setting forth the~~

~~items that an owner should consider when reviewing a proposed service and repair contract.~~

~~SEC. 10.—~~

7159.5. This section applies to all home improvement contracts as defined in Section 7151.2.

(a) Failure by the licensee or a person subject to be licensed under this chapter, or by his or her agent or salesperson to comply with the following provisions is cause for discipline:

(1) The contract shall include the agreed contract price in dollars and cents. The contract amount shall include the entire cost of the contract, including profit, labor, and materials, but excluding finance charges.

(2) If there is a separate finance charge between the contractor and the person contracting for home improvement, the finance charge shall be set out separately from the contract price.

(3) If a down payment will be charged, the down payment may not exceed the lesser of one thousand dollars (\$1,000) or 10 percent of the contract.

(4) If, in addition to the down payment, the contract provides for payments to be made prior to completion of the work, the contract shall include a schedule of payments in dollars and cents specifically referencing the amount of work or services to be performed and any materials and equipment to be supplied.

(5) Except for a down payment, the contractor may neither request nor accept payment that exceeds the value of the work performed or material delivered.

(6) Upon payment by the person contracting for home improvement, and prior to any further payment being made, the contractor shall, if requested, obtain and furnish to the person a full and unconditional release from any potential lien claimant claim or mechanic's lien pursuant to Section 3114 of the Civil Code for any portion of the work for which payment has been made. The person contracting for home improvement may withhold all further payments until these releases are furnished.

(7) If the contract provides for a payment of a salesperson's commission out of the contract price, that payment shall be made on a pro rata basis in proportion to the schedule of payments made to the contractor by the disbursing party in accordance with paragraph (4).

(8) A contractor furnishing a performance and payment bond, lien and completion bond, bond equivalent, or joint control approved by the registrar covering full performance and completion of the contract is exempt from paragraphs (3), (4), and (5) may accept payment prior to completion. If the contract provides for a contractor to furnish joint control, the contractor shall not have any financial or other interest in the joint control.

(b) A violation of paragraph (1), (3), or (5) of subdivision (a) by a licensee or a person subject to be licensed under this chapter, or by his or her agent or salesperson, is a misdemeanor punishable by a fine of not less than one hundred dollars (\$100) nor more than five thousand dollars (\$5,000), or by imprisonment in a county jail not exceeding one year, or by both fine and imprisonment. An indictment or information shall be brought, or a criminal complaint filed within four years from the date the buyer signs the contract.

(c) Any person who violates this section as part of a plan or scheme to defraud an owner of a residential or nonresidential structure, including a mobilehome or manufactured home, in connection with the offer or performance of repairs to the structure for damage caused by a natural disaster, shall be ordered by the court to make full restitution to the victim based on the person's ability to pay, as defined in subdivision (e) of Section 1203.1b of the Penal Code. In addition to full restitution, and imprisonment authorized by this section, the court may impose a fine of not less than five hundred dollars (\$500) nor more than twenty-five thousand dollars (\$25,000), based upon the defendant's ability to pay. This subdivision applies to natural disasters for which a state of emergency is proclaimed by the Governor pursuant to Section 8625 of the Government Code, or for which an emergency or major disaster is declared by the President of the United States.

SEC. 9. Section 7159.6 is added to the Business and Professions Code, to read:

~~7159.6. (a) This section applies to home improvement contracts as defined in subdivision (a) of Section 7151.2.~~

~~(1) The contract must include the agreed contract price in dollars and cents. The contract amount will include the entire cost of the contract, including profit, labor, and materials, but excluding finance charges.~~

~~(2) If there is a separate finance charge between the contractor and the person contracting for home improvement, the finance charge shall be set out separately from the contract price.~~

~~(3) If a downpayment will be charged, the downpayment may not exceed one thousand dollars (\$1,000) or 10 percent of the contract price, whichever is less.~~

~~(4) If, in addition to the downpayment, the contract provides for payments to be made prior to completion of the work, the contract shall include a schedule of payments in dollars and cents specifically referencing the amount of work or services to be performed and any materials and equipment to be supplied.~~

~~(5) Upon payment by the person contracting for home improvement, and prior to any further payment being made, the contractor shall, if requested, obtain and furnish to the person a full and unconditional release from any potential lien claimant claim or mechanic's lien pursuant to Section 3114 of the Civil Code for any portion of the work for which payment has been made. The person contracting for home improvement may withhold all further payments until these releases are furnished.~~

~~(6) If the contract provides for a payment of a salesperson's commission out of the contract price, that payment shall be made on a pro rata basis in proportion to the schedule of payments made to the contractor by the disbursing party in accordance with paragraph (4).~~

~~(7) Except for the downpayment, the contractor may neither request nor accept payment that exceeds the value of the work performed.~~

~~(8) A contractor furnishing a performance and payment bond, lien and completion bond, bond equivalent, or joint control approved by the registrar covering full performance and completion of the contract is exempt from the downpayment and progress payment requirements of these paragraphs and may accept payment prior to completion. If the contract provides for a contractor to furnish joint control, the contractor shall not have any financial or other interest in the joint control.~~

~~(b) A violation of this section is cause for discipline.~~

~~(c) A violation of paragraphs (3), (4), (5) and (7) of subdivision (a) by a licensee or a person subject to be licensed under this chapter, or by his or her agent or salesperson, is a misdemeanor punishable by a fine of not less than one hundred dollars (\$100) nor~~

1 more than five thousand dollars (\$5,000), or by imprisonment in
2 a county jail not exceeding one year, or by both fine and
3 imprisonment. An indictment or information shall be brought, or
4 a criminal complaint filed within four years from the date the
5 buyer signs the contract.

6 (d) ~~Any person who violates this section as part of a plan or~~
7 ~~scheme to defraud an owner of a residential or nonresidential~~
8 ~~structure, including a mobilehome or manufactured home, in~~
9 ~~connection with the offer or performance of repairs to the structure~~
10 ~~for damage caused by a natural disaster, shall be ordered by the~~
11 ~~court to make full restitution to the victim based on the person's~~
12 ~~ability to pay, as defined in subdivision (e) of Section 1203.1b of~~
13 ~~the Penal Code. In addition to full restitution, and imprisonment~~
14 ~~authorized by this section, the court may impose a fine of not less~~
15 ~~than five hundred dollars (\$500) nor more than twenty-five~~
16 ~~thousand dollars (\$25,000), based upon the defendant's ability to~~
17 ~~pay. This subdivision applies to natural disasters for which a state~~
18 ~~of emergency is proclaimed by the Governor pursuant to Section~~
19 ~~8625 of the Government Code, or for which an emergency or~~
20 ~~major disaster is declared by the President of the United States.~~

21 SEC. 11. ~~Section 7159.7 is added to the Business and~~
22 ~~Professions Code, to read:~~

23 7159.7. (a) ~~This section applies to contractors performing~~
24 ~~home improvement work under a service and repair contract as~~
25 ~~defined in subdivision (b) of Section 7151.2.~~

26 (1) ~~The contract may not exceed five hundred dollars (\$500)~~
27 ~~unless the service or repair work agreed to under the contract is~~
28 ~~necessary for the immediate protection of persons or real or~~
29 ~~personal property.~~

30 (2) ~~Under a service and repair contract, the contract amount~~
31 ~~may be stated as either a fixed contract amount in dollars and cents~~
32 ~~or, if a time and materials formula is used, as an estimated contract~~
33 ~~amount in dollars and cents.~~

34 (3) ~~The contract amount will include the entire cost of the~~
35 ~~contract including profit, labor and materials but excluding~~
36 ~~finance charges.~~

37 (4) ~~The actual contract amount of a Time and Materials~~
38 ~~contract may not exceed the estimated contract amount without~~
39 ~~authorization from the buyer.~~

~~(5) The contractor may not accept payment prior to completion of the service or repair.~~

~~(6) A service and repair contractor may charge only one service charge. For purposes of this section, a service charge includes a service or trip charge or an inspection fee.~~

~~(7) A service and repair contractor that charges a service charge must disclose in all advertisements that there is a service charge and, when the customer initiates the call for service, disclose the amount of the service charge.~~

~~(8) The contractor must offer to the customer any parts that were replaced.~~

~~(9) A contractor who furnishes a performance and payment bond, lien and completion bond, bond equivalent, or joint control approved by the registrar covering full performance and completion of the contract, may accept payment prior to completion. If the contract provides for a contractor to furnish joint control, the contractor shall not have any financial or other interest in the joint control.~~

~~(b) A violation of this section is cause for discipline.~~

~~(c) A violation of paragraph (1), (3), (4), (5), or (6) of subdivision (a) by a licensee or a person subject to be licensed under this chapter, or by his or her agent or salesperson, is a misdemeanor punishable by a fine of not less than one hundred dollars (\$100) nor more than five thousand dollars (\$5,000) or by imprisonment in a county jail not exceeding one year, or by both fine and imprisonment. An indictment or information shall be brought, or a criminal complaint filed within four years from the date the buyer signs the contract.~~

~~(d) An indictment or information against a person who is licensed or who is subject to licensure shall be brought, or a criminal complaint filed, for a violation of paragraphs (1), (3), (4), (5), and (6) of subdivision (a) within four years from the date the buyer signs the contract.~~

~~(e) Any person who violates this section as part of a plan or scheme to defraud an owner of a residential or nonresidential structure, including a mobilehome or manufactured home, in connection with the offer or performance of repairs to the structure for damage caused by a natural disaster, shall be ordered by the court to make full restitution to the victim based on the person's ability to pay, as defined in subdivision (e) of Section 1203.1b of~~

~~the Penal Code. In addition to full restitution, and imprisonment authorized by this section, the court may impose a fine of not less than five hundred dollars (\$500) nor more than twenty-five thousand dollars (\$25,000), based upon the defendant's ability to pay. This subdivision applies to natural disasters for which a state of emergency is proclaimed by the Governor pursuant to Section 8625 of the Government Code, or for which an emergency or major disaster is declared by the President of the United States.~~

~~SEC. 12. Section 7159.9 is added to the Business and Professions Code, to read:~~

~~7159.9. (a) A change order is not enforceable against a buyer unless the change order sets forth all of the following:~~

- ~~(1) The scope of work encompassed by the change order.~~
- ~~(2) The amount to be added or subtracted from the contract for the changes.~~
- ~~(3) The effect the extra work or change order will make in the progress payments or the completion date.~~

~~(b) The buyer may not require a contractor to perform extra or change order work without providing written authorization.~~

~~(c) Failure to comply with the requirements of this subdivision does not preclude the recovery of compensation for work performed based upon legal or equitable remedies designed to prevent unjust enrichment.~~

~~SEC. 13.—~~

~~7159.6. (a) A change order is not enforceable against a buyer unless the change order sets forth all of the following:~~

- ~~(1) The scope of work encompassed by the change order.~~
- ~~(2) The amount to be added or subtracted from the contract for the changes.~~
- ~~(3) The effect the extra work or change order will make in the progress payments or the completion date.~~

~~(b) The buyer may not require a contractor to perform extra or change-order work without providing written authorization.~~

~~(c) Failure to comply with the requirements of this section does not preclude the recovery of compensation for work performed based upon legal or equitable remedies designed to prevent unjust enrichment.~~

~~SEC. 10. Section 7159.10 is added to the Business and Professions Code, to read:~~

1 7159.10. (a) “Service and repair contract” means an
2 agreement between a contractor and an owner or between a
3 contractor and a tenant, regardless of the number of residence or
4 dwelling units contained in the building in which the tenant
5 resides, if the work is to be performed in, to, or upon the residence
6 or dwelling unit of the tenant, for the performance of a home
7 improvement as defined in Section 7151, and includes all labor,
8 services, and materials to be furnished and performed thereunder.
9 A bona fide service repairperson employed by a licensed
10 contractor or subcontractor hired by a licensed contractor may
11 enter into a service and repair contract on behalf of that
12 contractor.

13 (b) A “service and repair contract” meets all the following
14 requirements:

15 (1) The contract price is seven hundred and fifty dollars (\$750)
16 or less.

17 (2) The prospective buyer initiates the negotiation between the
18 parties.

19 (3) The contractor does not sell the buyer goods or services
20 beyond those reasonably necessary to take care of the particular
21 problem that caused the buyer to contact the contractor.

22 (4) No payment is due until the work is completed.

23 SEC. 11. Section 7159.11 is added to the Business and
24 Professions Code, to read:

25 7159.11. This section applies to service and repair contracts
26 as defined in Section 7159.10. A violation of this section is cause
27 for discipline.

28 (a) A service and repair contract and any changes to the
29 contract shall be in writing and signed by the parties.

30 (b) The writing shall be legible and in a form that clearly
31 describes any other document to be incorporated into the contract.

32 (c) Any printed form shall be readable and the headings shall
33 be in at least 10-point boldface type.

34 (d) The provisions of this section are not exclusive and do not
35 relieve the contractor from compliance with any other applicable
36 provision of law.

37 SEC. 12. Section 7159.12 is added to the Business and
38 Professions Code, to read:

39 7159.12. This section applies to service and repair contracts,
40 as defined in Section 7159.10. Failure by the licensee to provide

1 *the following information, notices, and disclosures in the contract*
2 *is cause for discipline:*

3 (a) *The name, business address, and license number of the*
4 *contractor and the description of the license classification relevant*
5 *to the project.*

6 (b) *The name and registration number of the home*
7 *improvement salesperson, if any.*

8 (c) *A notice concerning commercial general liability*
9 *insurance. This notice may be provided as an attachment to the*
10 *contract if the contract includes the statement, “The notice*
11 *concerning commercial general liability insurance is attached to*
12 *this contract.” The notice shall include the heading “Commercial*
13 *General Liability Insurance (CGL)” followed by whichever of the*
14 *following statements is both relevant and correct:*

15 (1) *“(The name on the license or “This contractor”) does not*
16 *carry commercial general liability insurance.”*

17 (2) *“(The name on the license or “This contractor”) carries*
18 *commercial general liability insurance written by (the insurance*
19 *company). You may call the (insurance company) at*
20 *_____ to check the contractor’s insurance coverage.”*

21 (3) *“(The name on the license or “This contractor”) is*
22 *self-insured.”*

23 (d) *The heading: “Workers’ Compensation,” followed by*
24 *whichever of the following statements is both relevant and correct:*

25 (1) *“(The name on the license or “This contractor”) has no*
26 *employees and is exempt from workers’ compensation*
27 *requirements.”*

28 (2) *(The name on the license or “This contractor”) certifies*
29 *that he or she carries workers’ compensation insurance for all*
30 *employees.*

31 *SEC. 13. Section 7159.13 is added to the Business and*
32 *Professions Code, to read:*

33 *7159.13. This section applies to service and repair contracts*
34 *as defined in Section 7159.10. Failure by the licensee to provide*
35 *the following information, notices, and disclosures in the contract*
36 *is cause for discipline:*

37 (a) *Notice of the type of contract in at least 10-point boldface*
38 *type: “Service and Repair: work performed under a service and*
39 *repair contract is limited to \$750.”*

1 (b) The notice in at least 10-point bold face type: “Notice to the
2 Buyer: You are entitled to a completely filled in copy of this
3 agreement before any work may be started.”

4 (c) Where the contract is a fixed contract amount, the heading:
5 “Contract Amount” followed by the amount of the contract in
6 dollars and cents.

7 (d) If a finance charge will be charged, the heading: “Finance
8 Charge” followed by the amount in dollars and cents. The finance
9 charge is to be set out separately from the contract amount.

10 (e) Where the contract is estimated by a time and materials
11 formula, the heading “Estimated Contract Amount” followed by
12 the estimated contract amount in dollars and cents. The contract
13 must disclose the set rate and the estimated cost of materials. The
14 contract must also disclose how time will be computed: for
15 example, in increments of quarter hours, half hours, or hours, and
16 the statement: “The actual contract amount of a Time and
17 Materials contract may not exceed the estimated contract amount
18 without written authorization from the buyer.”

19 (f) The heading: “Description of the project and materials to
20 be used and equipment to be installed” followed by a description
21 of the project and materials to be used and equipment to be
22 installed.

23 (g) The heading “The law requires that the contractor offer you
24 any parts that were replaced during the service call. If you do not
25 want the parts, initial the checkbox labeled “OK for contractor to
26 take replaced parts.”

27 (h) A checkbox labeled “OK for contractor to take replaced
28 parts.”

29 (i) If a service charge is charged, the heading “Amount of
30 service charge” followed by the service charge.

31 (j) Before the contractor or the contractor’s representative
32 starts any work, a copy of the complete contract agreed upon by
33 the parties and signed by the contractor or the contractor’s
34 representative.

35 (k) Except when the contract is negotiated at the contractor’s
36 place of business, the statement found in paragraph (5) of
37 subdivision (a) of Section 1689.7 of the Civil Code for the
38 three-day right to cancel or the statement found in paragraph (2)
39 subdivision (e) of Section 1689.7 for the seven-day right to cancel,
40 whichever is relevant. The statement may be attached to the

1 contract if the contract includes a checkbox and whichever
2 statement is relevant:

3 (1) “The law requires that the contractor give you a notice
4 explaining your right to cancel. Initial the checkbox if the
5 contractor has given you a ‘Notice of the Three-Day Right to
6 Cancel.’ ”

7 (2) “The law requires that the contractor give you a notice
8 explaining your right to cancel. Initial the checkbox if the
9 contractor has given you a ‘Notice of the Seven-Day Right to
10 Cancel.’ ”

11 (l) The signatures of the contractor or the contractor’s
12 representative, and the buyer.

13 (m) The date the contract was signed.

14 SEC. 14. Section 7159.14 is added to the Business and
15 Professions Code, to read:

16 7159.14. (a) This section applies to a service and repair
17 contract as defined in Section 7159.10. A violation of this section
18 is cause for discipline.

19 (1) The contract may not exceed seven hundred and fifty dollars
20 (\$750).

21 (2) Under a service and repair contract, the contract amount
22 may be stated as either a fixed contract amount in dollars and cents
23 or, if a time and materials formula is used, as an estimated contract
24 amount in dollars and cents.

25 (3) The contract amount will include the entire cost of the
26 contract including profit, labor and materials but excluding
27 finance charges.

28 (4) The actual contract amount of a time and materials contract
29 may not exceed the estimated contract amount without
30 authorization from the buyer.

31 (5) No payment may be due before the project is completed.

32 (6) A service and repair contractor may charge only one service
33 charge. For purposes of this chapter, a service charge includes
34 such charges as a service or trip charge, or an inspection fee.

35 (7) A service and repair contractor charging a service charge
36 must disclose in all advertisements that there is a service charge
37 and, when the customer initiates the call for service, must disclose
38 the amount of the service charge.

39 (8) The service and repair contractor must offer to the customer
40 any parts that were replaced.

(9) A contractor who furnishes a performance and payment bond, lien and completion bond, bond equivalent, or joint control approved by the registrar covering full performance and completion of the contract, may accept payment prior to completion. If the contract provides for a contractor to furnish joint control, the contractor shall not have any financial or other interest in the joint control.

(b) A violation of paragraph (1), (3), (4), or (6) of subdivision (a) by a licensee or a person subject to be licensed under this chapter, or by his or her agent or salesperson, is a misdemeanor punishable by a fine of not less than one hundred dollars (\$100) nor more than five thousand dollars (\$5,000) or by imprisonment in a county jail not exceeding one year, or by both fine and imprisonment. An indictment or information against a person who is licensed or who is subject to licensure shall be brought, or a criminal complaint filed within four years from the date the buyer signs the contract.

(c) Any person who violates this section as part of a plan or scheme to defraud an owner of a residential or nonresidential structure, including a mobilehome or manufactured home, in connection with the offer or performance of repairs to the structure for damage caused by a natural disaster, shall be ordered by the court to make full restitution to the victim based on the person's ability to pay, as defined in subdivision (e) of Section 1203.1b of the Penal Code. In addition to full restitution, and imprisonment authorized by this section, the court may impose a fine of not less than five hundred dollars (\$500) nor more than twenty-five thousand dollars (\$25,000), based upon the defendant's ability to pay. This subdivision applies to natural disasters for which a state of emergency is proclaimed by the Governor pursuant to Section 8625 of the Government Code, or for which an emergency or major disaster is declared by the President of the United States.

SEC. 15. Section 1689.5 of the Civil Code is amended to read:
1689.5. As used in Sections 1689.6 to 1689.11, inclusive, and in Section 1689.14:

(a) "Home solicitation contract or offer" means any contract, whether single or multiple, or any offer which is subject to approval, for the sale, lease, or rental of goods or services or both, made at other than appropriate trade premises in an amount of twenty-five dollars (\$25) or more, including any interest or service

1 charges. “Home solicitation contract” does not include any
2 contract under which the buyer has the right to rescind pursuant to
3 Title 1, Chapter 2, Section 125 of the Federal Consumer Credit
4 Protection Act (P.L. 90-321) and the regulations promulgated
5 pursuant thereto, ~~or any contract for repair services with a~~
6 ~~contractor who is duly licensed pursuant to Chapter 9~~
7 ~~(commencing with Section 7000) of Division 3 of the Business and~~
8 ~~Professions Code, if (1) the contract price is less than five hundred~~
9 ~~dollars (\$500), (2) the negotiation between the parties was initiated~~
10 ~~by the prospective buyer, and (3) the contractor does not offer the~~
11 ~~buyer goods or services beyond the scope of the buyer’s initial~~
12 ~~request.~~

13 (b) “Appropriate trade premises,” means premises where
14 either the owner or seller normally carries on a business, or where
15 goods are normally offered or exposed for sale in the course of a
16 business carried on at those premises.

17 (c) “Goods” means tangible chattels bought for use primarily
18 for personal, family, or household purposes, including certificates
19 or coupons exchangeable for these goods, and including goods
20 that, at the time of the sale or subsequently, are to be so affixed to
21 real property as to become a part of the real property whether or
22 not severable therefrom, but does not include any vehicle required
23 to be registered under the Vehicle Code, nor any goods sold with
24 this vehicle if sold under a contract governed by Section 2982, and
25 does not include any mobilehome, as defined in Section 18008 of
26 the Health and Safety Code, nor any goods sold with this
27 mobilehome if either are sold under a contract subject to Section
28 18036.5 of the Health and Safety Code.

29 (d) “Services” means work, labor and services, including, but
30 not limited to, services furnished in connection with the repair,
31 restoration, alteration, or improvement of residential premises, or
32 services furnished in connection with the sale or repair of goods
33 as defined in Section 1802.1, and courses of instruction, regardless
34 of the purpose for which they are taken, but does not include the
35 services of attorneys, real estate brokers and salesmen, securities
36 dealers or investment counselors, physicians, optometrists, or
37 dentists, nor financial services offered by banks, savings
38 institutions, credit unions, industrial loan companies, personal
39 property brokers, consumer finance lenders, or commercial
40 finance lenders, organized pursuant to state or federal law, that are

1 not connected with the sale of goods or services, as defined herein,
2 nor the sale of insurance that is not connected with the sale of goods
3 or services as defined herein, nor services in connection with the
4 sale or installation of mobilehomes or of goods sold with a
5 mobilehome if either are sold or installed under a contract subject
6 to Section 18036.5 of the Health and Safety Code, nor services for
7 which the tariffs, rates, charges, costs, or expenses, including in
8 each instance the time sale price, is required by law to be filed with
9 and approved by the federal government or any official,
10 department, division, commission, or agency of the United States
11 or of the state.

12 (e) “Business day” means any calendar day except Sunday, or
13 the following business holidays: New Year’s Day, Washington’s
14 Birthday, Memorial Day, Independence Day, Labor Day,
15 Columbus Day, Veterans’ Day, Thanksgiving Day, and Christmas
16 Day.

17 ~~SEC. 14.~~

18 *SEC. 16.* Section 1689.6 of the Civil Code is amended to read:

19 1689.6. (a) (1) Except for a contract written pursuant to
20 subdivision (b) of Section 7151.2 of the Business and Professions
21 Code, in addition to any other right to revoke an offer, the buyer
22 has the right to cancel a home solicitation contract or offer until
23 midnight of the third business day after the day on which the buyer
24 signs an agreement or offer to purchase which complies with
25 Section 1689.7.

26 ~~(2) For a contract written pursuant to subdivision (a) of Section~~
27 ~~7151.2 of the Business and Professions Code, in addition to any~~
28 ~~other right to revoke an offer, the buyer has the right to cancel a~~
29 ~~home solicitation contract or offer until midnight of the third~~
30 ~~business day after the buyer receives a signed and dated copy of~~
31 ~~the contract.~~

32 (2) *In addition to any other right to revoke an offer, the buyer*
33 *has the right to cancel a home solicitation contract written*
34 *pursuant to Section 7151.2 of the Business and Professions Code*
35 *until midnight of the third business day after the buyer receives a*
36 *signed and dated copy of the contract that complies with Section*
37 *1689.7 of this code.*

38 (3) *In addition to any other right to revoke an offer, the buyer*
39 *has the right to cancel a home solicitation contract written*
40 *pursuant to Section 7159.10 of the Business and Professions Code,*



1 *until the buyer receives a signed and dated copy of a service and*
2 *repair contract which complies with Section 1689.7 of this code*
3 *and meets the contract requirements found in Section 7159.10 of*
4 *the Business and Professions Code and the work commences.*

5 (b) In addition to any other right to revoke an offer, any buyer
6 has the right to cancel a home solicitation contract or offer for the
7 purchase of a personal emergency response unit until midnight of
8 the seventh business day after the day on which the buyer signs an
9 agreement or offer to purchase which complies with Section
10 1689.7. This subdivision shall not apply to a personal emergency
11 response unit installed with, and as part of, a home security alarm
12 system subject to the Alarm Company Act (Chapter 11.6
13 (commencing with Section 7590) of Division 3 of the Business and
14 Professions Code) which has two or more stationary protective
15 devices used to enunciate an intrusion or fire and is installed by an
16 alarm company operator operating under a current license issued
17 pursuant to the Alarm Company Act, which shall instead be
18 subject to subdivision (a).

19 (c) In addition to any other right to revoke an offer, a buyer has
20 the right to cancel a home solicitation contract or offer for the
21 repair or restoration of residential premises damaged by a disaster
22 that was not void pursuant to Section 1689.14, until midnight of
23 the seventh business day after the buyer signs and dates the
24 contract.

25 (d) Cancellation occurs when the buyer gives written notice of
26 cancellation to the seller at the address specified in the agreement
27 or offer.

28 (e) Notice of cancellation, if given by mail, is effective when
29 deposited in the mail properly addressed with postage prepaid.

30 (f) Notice of cancellation given by the buyer need not take the
31 particular form as provided with the contract or offer to purchase
32 and, however expressed, is effective if it indicates the intention of
33 the buyer not to be bound by the home solicitation contract or offer.

34 (g) "Personal emergency response unit," for purposes of this
35 section, means an in-home radio transmitter device or two-way
36 radio device generally, but not exclusively, worn on a neckchain,
37 wrist strap, or clipped to clothing, and connected to a telephone
38 line through which a monitoring station is alerted of an emergency
39 and emergency assistance is summoned.

40 ~~SEC. 15.~~

1 SEC. 17. Section 1689.7 of the Civil Code is amended to read:

2 1689.7. (a) (1) ~~In~~ Except for contracts written pursuant to
3 Sections 7151.2 and 7159.10 of the Business and Professions
4 Code, in a home solicitation contract or offer, the buyer's
5 agreement or offer to purchase shall be written in the same
6 language, e.g., Spanish, as principally used in the oral sales
7 presentation, shall be dated, *shall be* signed by the buyer, and
8 except as provided in paragraph (2), shall contain in immediate
9 proximity to the space reserved for his or her signature a
10 conspicuous statement in a size equal to at least 10-point bold type,
11 as follows: "You, the buyer, may cancel this transaction at any
12 time prior to midnight of the third business day after the date of this
13 transaction. See the attached notice of cancellation form for an
14 explanation of this right."

15 (2) The statement required pursuant to this subdivision for a
16 home solicitation contract or offer for the purchase of a personal
17 emergency response unit, as defined in Section 1689.6, which is
18 not installed with and as part of a home security alarm system
19 subject to the Alarm Company Act (Chapter 11.6 (commencing
20 with Section 7590) of Division 3 of the Business and Professions
21 Code) which has two or more stationary protective devices used
22 to enunciate an intrusion or fire and is installed by an alarm
23 company operator operating under a current license issued
24 pursuant to the Alarm Company Act, is as follows: "You, the
25 buyer, may cancel this transaction at any time prior to midnight of
26 the seventh business day after the date of this transaction. See the
27 attached notice of cancellation form for an explanation of this
28 right."

29 (3) ~~The~~ Except for contracts written pursuant to Sections
30 7151.2 and 7159.10 of the Business and Professions Code, the
31 statement required pursuant to this subdivision for the repair or
32 restoration of residential premises damaged by a disaster pursuant
33 to subdivision (c) of Section 1689.6 is as follows: "You, the buyer,
34 may cancel this transaction at any time prior to midnight of the
35 seventh business day after the date of this transaction. See the
36 attached notice of cancellation form for an explanation of this
37 right."

38 ~~(4) The statement required pursuant to this subdivision for a~~
39 ~~home improvement contract, as defined in subdivision (a) of~~
40 ~~Section 7151.2 of the Business and Professions Code, is as~~

follows:

~~“Your Right to Cancel This Contract~~

~~Unless this contract was negotiated at the contractor’s place of business, you, the buyer, have the right to cancel this contract. You may cancel by e-mail, mailing, faxing, or delivering a written notice to the contractor at the contractor’s place of business by midnight of the third day after you received a signed copy of the contract that includes this notice. Include your name, your address, and the date you received the signed copy of the contract and this notice.”~~

~~(5) The statement required pursuant to this subdivision for a service and repair contract, as defined in subdivision (b) of Section 7151.2 of the Business and Professions Code, is as follows:~~

~~“Your Right to Cancel This Contract”~~

~~Most consumer contracts allow you, the buyer, 3 days from the day you sign the contract to cancel the contract. However, you may not cancel a service and repair contract of \$500 or less if all of the following apply:~~

- ~~1. You made the call to the contractor to request service or repair.~~
- ~~2. The contractor did not sell you goods or services beyond those reasonably necessary to address the particular problem that caused you to call for service or repair.~~
- ~~3. Payment was not due until the job was completed.~~
- ~~4. The contract did not exceed \$500. Note that a service and repair contract may exceed \$500 only if the service or repair is an emergency or a necessary repair needed for the immediate protection of people or property.~~

~~If any one of the conditions listed above does not apply, you may cancel the contract by e-mailing, mailing, faxing, or delivering a written notice to the contractor at the contractor’s place of business within 3 days of receiving this notice. Include your name, your address, and the date you received a signed copy of the contract and this notice.~~

~~(4) A home solicitation contract written pursuant to Section 7151.2 of the Business and Professions Code shall be written in the same language, e.g., Spanish, as principally used in the oral sales~~

1 *presentation. The contract shall include the following statement*
2 *with the heading in at least 10-point boldface type. The statement*
3 *shall be dated and signed by the buyer:*

4
5 *“Three-Day Right to Cancel*

6
7 *You, the buyer, have the right to cancel this contract within three*
8 *days of receiving this notice. You may cancel by e-mailing,*
9 *mailing, faxing, or delivering a written notice to the contractor at*
10 *the contractor’s place of business by midnight of the third day after*
11 *you received a signed copy of the contract that includes this notice.*
12 *Include your name, your address, and the date you received the*
13 *signed copy of the contract and this notice.*

14 *If you cancel, the seller must return to you anything you paid*
15 *within 10 days of receiving the notice of cancellation. For your*
16 *part, you must make available to the seller at your residence, in*
17 *substantially as good condition as you received it, any goods*
18 *delivered to you under this contract or sale, or you may, if you wish,*
19 *comply with the seller’s instructions on how to return the goods at*
20 *the seller’s expense and risk. If you do make the goods available*
21 *to the seller and the seller does not pick them up within 20 days of*
22 *the date of your notice of cancellation, you may keep them without*
23 *any further obligation. If you fail to make the goods available to*
24 *the seller, or if you agree to return the goods to the seller and fail*
25 *to do so, then you remain liable for performance of all obligations*
26 *under the contract.”*

27
28 *(5) A home solicitation contract written pursuant to Section*
29 *7159.10 of the Business and Professions Code shall be written in*
30 *the same language, e.g., Spanish, as principally used in the oral*
31 *sales presentation. The following statement with the heading in at*
32 *least 10-point boldface type. The statement shall be dated and*
33 *signed by the buyer:*

34
35 *“YOUR RIGHTS*

36
37 *You, the buyer, have the right to cancel this contract until:*

- 38 *1. You receive a signed and dated copy of this contract*
39 *2. You agree to the terms, and*
40 *3. The contractor starts work.*

Three-Day Right to Cancel

Even if the work has begun or has been completed, you may still cancel the contract within three days of receiving this notice if the contract price is more than seven hundred and fifty dollars (\$750), you, the buyer, did not initiate the service or repair, the contractor sold you goods or service beyond those reasonably necessary to take care of the particular problem that caused you to contact the contractor, or the payment was due before the work was complete.

If any of these reasons for canceling occurred, you may cancel the contract by e-mailing, mailing, faxing, or delivering a written notice to the contractor at the contractor's place of business within three days of receiving this notice. Include your name, your address, and the date you received a signed copy of the contract and this notice.

If you cancel, the seller must return to you anything you paid within 10 days of receiving the notice of cancellation. For your part, you must make available to the seller at your residence, in substantially as good condition as you received it, any goods delivered to you under this contract or sale, or you may, if you wish, comply with the seller's instructions on how to return the goods at the seller's expense and risk. If you do make the goods available to the seller and the seller does not pick them up within 20 days of the date of your notice of cancellation, you may keep them without any further obligation. If you fail to make the goods available to the seller, or if you agree to return the goods to the seller and fail to do so, then you remain liable for performance of all obligations under the contract."

(b) The agreement or offer to purchase shall contain on the first page, in a type size no smaller than that generally used in the body of the document, the following: (1) the name and address of the seller to which the notice is to be mailed, and (2) the date the buyer signed the agreement or offer to purchase.

(c) Except as provided in subdivision (d), the agreement or offer to purchase shall be accompanied by a completed form in duplicate, captioned "Notice of Cancellation" which shall be attached to the agreement or offer to purchase and be easily detachable, and which shall contain in type of at least 10-point the following statement written in the same language, e.g., Spanish, as used in the contract:

1 “Notice of Cancellation”

2
3 /enter date of transaction/
4 _____

5 (Date)
6

7 You may cancel this transaction, without any penalty or
8 obligation, within three business days from the above date.

9 If you cancel, any property traded in, any payments made by you
10 under the contract or sale, and any negotiable instrument executed
11 by you will be returned within 10 days following receipt by the
12 seller of your cancellation notice, and any security interest arising
13 out of the transaction will be canceled.

14 If you cancel, you must make available to the seller at your
15 residence, in substantially as good condition as when received, any
16 goods delivered to you under this contract or sale, or you may, if
17 you wish, comply with the instructions of the seller regarding the
18 return shipment of the goods at the seller’s expense and risk.

19 If you do make the goods available to the seller and the seller
20 does not pick them up within 20 days of the date of your notice of
21 cancellation, you may retain or dispose of the goods without any
22 further obligation. If you fail to make the goods available to the
23 seller, or if you agree to return the goods to the seller and fail to do
24 so, then you remain liable for performance of all obligations under
25 the contract.

26
27 To cancel this transaction, mail or deliver a signed and dated copy of this
28 cancellation notice, or any other written notice, or send a telegram

29 to _____,
30 /name of seller/

31 at _____
32 /address of seller’s place of business/

33 not later than midnight of _____.

34 (Date)

35
36 I hereby cancel this transaction. _____

37 (Date)
38 _____

39 (Buyer’s signature)
40

(d) Any agreement or offer to purchase a personal emergency response unit, as defined in Section 1689.6, which is not installed with and as part of a home security alarm system subject to the Alarm Company Act which has two or more stationary protective devices used to enunciate an intrusion or fire and is installed by an alarm company operator operating under a current license issued pursuant to the Alarm Company Act, shall be subject to the requirements of subdivision (c), and shall be accompanied by the “Notice of Cancellation” required by subdivision (c), except that the first paragraph of that notice shall be deleted and replaced with the following paragraph:

You may cancel this transaction, without any penalty or obligation, within seven business days from the above date.

~~Any~~ (e) *(1) Except for contracts written pursuant to Sections 7151.2 and 7159.10 of the Business and Professions Code, any agreement or offer to purchase services for the repair or restoration of residential premises damaged by a disaster that is subject to subdivision (c) of Section 1689.6, shall be subject to the requirements of subdivision (c) of this section, and shall be accompanied by the “Notice of Cancellation” required by subdivision (c) of this section, except that the first paragraph of that notice shall be deleted and replaced with the following paragraph:*

You may cancel this transaction, without any penalty or obligation, within seven business days from the above date.

(2) A home solicitation contract written pursuant to Section 7151.2 of the Business and Professions Code for the repair or restoration of residential premises damaged by a disaster that is subject to subdivision (c) of Section 1689.6, shall include the following notice:

“Seven-Day Right to Cancel

You, the buyer, have the right to cancel this contract within seven days of receiving this notice. You may cancel by e-mailing, mailing, faxing, or delivering a written notice to the contractor at

1 *the contractor's place of business by midnight of the seventh day*
2 *after you received a signed copy of the contract that includes this*
3 *notice. Include your name, your address, and the date you received*
4 *the signed copy of the contract and this notice.*

5 *If you cancel, the seller must return to you anything you paid*
6 *within 10 days of receiving the notice of cancellation. For your*
7 *part, you must make available to the seller at your residence, in*
8 *substantially as good condition as you received it, any goods*
9 *delivered to you under this contract or sale, or you may, if you wish,*
10 *comply with the seller's instructions on how to return the goods at*
11 *the seller's expense and risk. If you do make the goods available*
12 *to the seller and the seller does not pick them up within 20 days of*
13 *the date of your notice of cancellation, you may keep them without*
14 *any further obligation. If you fail to make the goods available to*
15 *the seller, or if you agree to return the goods to the seller and fail*
16 *to do so, then you remain liable for performance of all obligations*
17 *under the contract."*

18
19 *(3) A home solicitation contract written pursuant to Section*
20 *7159.10 of the Business and Professions Code for the repair or*
21 *restoration of residential premises damaged by a disaster that is*
22 *subject to subdivision (c) of Section 1689.6, shall include the*
23 *following notice with the heading in at least 10-point boldface*
24 *type:*

25
26 **"YOUR RIGHTS**

27
28 *You, the buyer, have the right to cancel until:*

29 *1. You receive a signed and dated copy of this contract*

30 *2. You agree to the terms, and*

31 *3. The contractor starts work.*

32 **"Seven-Day Right to Cancel**

33
34 *Even if the work has begun or has been completed, you may still*
35 *cancel the contract within seven working days of receiving this*
36 *notice if the contract price is more than seven hundred and fifty*
37 *dollars (\$750), you, the buyer, did not initiate the service or repair,*
38 *the contractor sold you goods or service beyond those reasonably*
39 *necessary to take care of the particular problem that caused you*

1 to contact the contractor, or the payment was due before the work
2 was complete.

3 If any of these reasons for canceling occurred, you may cancel
4 the contract by e-mailing, mailing, faxing, or delivering a written
5 notice to the contractor at the contractor's place of business within
6 seven days of receiving this notice. Include your name, your
7 address, and the date you received a signed copy of the contract
8 and this notice.

9 (f) The seller shall provide the buyer with a copy of the contract
10 or offer to purchase and the attached notice of cancellation, and
11 shall inform the buyer orally of his or her right to cancel and the
12 requirement that cancellation be in writing, at the time the home
13 solicitation contract or offer is executed.

14 (g) Until the seller has complied with this section the buyer may
15 cancel the home solicitation contract or offer.

16 (h) "Contract or sale" as used in subdivision (c) means "home
17 solicitation contract or offer" as defined by Section 1689.5.

18 (i) ~~Immediately following the statement describing the right to~~
19 ~~cancel, a home improvement contract, as defined in Section~~
20 ~~7151.2 of the Business and Professions Code, shall include the~~
21 ~~following statement:~~

22
23 ~~"Once you have canceled the contract, you made need to take~~
24 ~~more steps to complete the process. Visit CSLB's Web site, or call~~
25 ~~1-800-312-CSLB (2752) for instructions on what to do when you~~
26 ~~are canceling a home improvement or service and repair contract."~~

27 ~~SEC. 16.~~

28 ~~SEC. 18.~~ Section 1689.13 of the Civil Code is repealed.

29 ~~SEC. 17.~~

30 ~~SEC. 19.~~ Section 1689.13 is added to the Civil Code, to read:

31 1689.13. Sections 1689.5, 1689.6, 1689.7, 1689.10, 1689.12,
32 and 1689.14 do not apply to a contract that meets all of the
33 following requirements:

34 (a) The contract is initiated by the buyer or his or her agent or
35 insurance representative.

36 (b) The contract is executed in connection with making of
37 emergency or immediately necessary repairs that are necessary for
38 the immediate protection of persons or real or personal property.

39 (c) The buyer gives the seller a separate statement that is dated
40 and signed that describes the situation that requires immediate

1 remedy, and expressly acknowledges and waives the right to cancel
2 the sale within three or seven business days, whichever applies.

3 ~~SEC. 18.~~

4 *SEC. 20. Section 1689.15 is added to the Civil Code, to read:*

5 *1689.15. Notwithstanding any other provision of law, a*
6 *contractor who is duly licensed pursuant to Chapter 9*
7 *(commencing with Section 7000) of Division 3 of the Business and*
8 *Professions Code may commence work on a service and repair*
9 *project as soon as the buyer receives a signed and dated copy of*
10 *a service and repair contract that meets the contract requirements*
11 *found in Section 7159.10 of the Business and Professions Code.*
12 *The buyer retains any right of cancellation applicable to home*
13 *solicitations under Sections 1689.5 to 1689.14, inclusive, until*
14 *such time as the buyer receives a signed and dated copy of a service*
15 *and repair contract that meets the contract requirements found in*
16 *Section 7159.70 of the Business and Professions Code and*
17 *complies with Section 1689.7 and the buyer authorizes the*
18 *contractor licensee to begin the service and repair project, and the*
19 *licensee in fact commences that project, at which time the buyer is*
20 *deemed to have waived, and has waived, any cancellation right*
21 *provided in Sections 1689.5 to 1689.14, inclusive.*

22 *SEC. 21. No reimbursement is required by this act pursuant*
23 *to Section 6 of Article XIII B of the California Constitution*
24 *because the only costs that may be incurred by a local agency or*
25 *school district will be incurred because this act creates a new crime*
26 *or infraction, eliminates a crime or infraction, or changes the*
27 *penalty for a crime or infraction, within the meaning of Section*
28 *17556 of the Government Code, or changes the definition of a*
29 *crime within the meaning of Section 6 of Article XIII B of the*
30 *California Constitution.*